

Texas Commission on Environmental Quality

Investigation Report

United Environmental Services, LLC
CN603494352

UNITED ENVIRONMENTAL SERVICES

RN105642946

Investigation # 933787

Incident #

Investigator: ELIJAH GANDEE

Site Classification

CONDITIONALLY EXEMPT SMALL
QUANTITY GENERATOR
CONTAINER STORAGE AREA
INDUSTRIAL NONHAZARDOUS CLASS
MISCELLANEOUS STORAGE
CONTAINERS
PROCESSING
SUMP
TANK

Conducted: 03/28/2011 -- 05/10/2011

NAIC Code: 324110

NAIC Code: 484110

SIC Code: 4953

SIC Code: 2911

Program(s): INDUSTRIAL AND
HAZARDOUS WASTE
USED OIL

Investigation Type : Compliance Investigation

Location :

Additional ID(s) : A85718
TXR000033449
86552

Address: 8010 NEEDLEPOINT RC
BAYTOWN, TX 77521

Activity Type : REGION 12 - HOUSTON
UOFGEN - Investigation of generator of used oil/used oil
filters
IHWCESQG - CEI of conditionally-exempt small quantity
generator

Principal(s) :

Role	Name
RESPONDENT	UNITED ENVIRONMENTAL SERVICES LLC

Contact(s) :

Role	Title	Name	Phone
Participated in Investigation	PLANT MANAGER	MR STEVE HOWARD	(832) 695-1542
Regulated Entity Contact	PLANT MANAGER	MR STEVE HOWARD	
Regulated Entity Mail Contact	PLANT MANAGER	MR STEVE HOWARD	

Other Staff Member(s) :

Role	Name
QA Reviewer	BARBARA JOHNSTON
Supervisor	JASON YBARRA

Associated Check List

<u>Checklist Name</u>	<u>Unit Name</u>
IHW CEI GENERAL FACILITY	86552 General
IHW CONTAINER STORAGE AREA	86552 CSA
IHW GENERIC OTHER ISSUES OR VIOLATIONS (10 ITEMS)	86552 Generic
IHW PRE-INVESTIGATION	86552 PRE
MSW USED OIL HANDLER GENERATORS	A85718 UO Generator
MSW USED OIL HANDLER MARKETERS	A85718 UO Marketer
MSW USED OIL HANDLER PROCESSOR/REFINERS CHECKLIST	A85718 UO Processor

Investigation Comments :**INTRODUCTION**

On March 28 and 31, 2011, Mr. Elijah Gandee, Environmental Investigator of the Texas Commission on Environmental Quality (TCEQ) Houston Region 12 Office, conducted an Industrial and Hazardous Waste (IHW) Compliance Evaluation Investigation (CEI) and Used Oil (UO) investigation of the United Environmental Services, LLC (UES) facility located at 8010 Needlepoint Road, Baytown (Harris County) Texas 77521. The investigation on March 28 was unannounced as the investigation was conducted concurrently with a TCEQ Air complaint investigation concerning potential Nuisance Odors. The second day, March 31, 2011, was scheduled with the Plant Manager, Mr. Steve Howard. A list of records to be reviewed was left with the facility at the conclusion of the investigation on March 28, 2011. Mr. Howard represented the facility during the investigation.

The investigation involved an opening conference, records review, a site investigation, and an exit interview. During the opening conference, the nature and scope of the investigation were discussed. Operating records pertaining to the facility's waste management activities were reviewed during the investigation. Records were reviewed from the last three years. The facility is identified in the Central Registry by the Regulated Entity No.: RN105642946 and the Customer No.: CN603494352.

The findings of the investigation were discussed with Mr. Howard, in an exit interview on March 31, 2011. An Exit Interview Form was submitted to the facility via electronic mail on April 4, 2011 (Attachment 1). The facility was made aware of the TCEQ policies on Notice of Violations (NOV) and Enforcement Actions.

GENERAL FACILITY AND WASTE PROCESS INFORMATION

The facility is on a 3.8 acre tract in the drainage area of Segment 0901 of the Trinity San Jacinto Coastal Basin. The surrounding area is mixed industrial, commercial, and residential (Facility location and layout maps are provided in Attachment 2). The facility employs approximately 70 employees, and operates three shifts, seven days a week. Operations started at this facility under the name Pro Waste in 2001. Pro Waste was later acquired by United Environmental Services. The facility's North American Industrial Classification System (NAICS) code is 488999. This industry comprises establishments primarily engaged in providing support activities to transportation.

The facility consists of a 2,100 square foot office building, an 8,400 square foot warehouse, an 1,100 square foot maintenance shop, and twenty tanks used for the storage and processing of oily material including used oil. The tanks range in capacity from 11,970 gallons to 55,500 gallons. UES is registered as a used oil transporter, used oil transfer facility, used oil processor, used oil handler, used oil filter handler, used oil filter transporter, and used oil filter storage under registration number A85718, EPA ID No.: TXR000033449.

Purchases of oily materials and used oil are documented using Bills of Lading. UES processes used oil and off-specification refinery products, hydrocarbon streams, lube oils and tank pipeline clean-out materials from refineries and bulk storage terminals. UES provides residuals recovery of a variety of products, plant material, and what is claimed to be non-hazardous waste streams including: tank bottoms, foundry sand, API separator sludge, oily water, oily dirt, and petroleum sludges utilizing chemicals, centrifuge, and heat assisted phase separation. A process flow diagram is included in Attachment 3. The facility does not claim the oily materials as a waste, nor do they appear to manage it in accordance with the used oil regulations. Further documentation concerning facility management of in-bound shipments of oily material and used oil, is requested in the Additional Issues section of this report.

Inbound shipments of oily materials arrive at the yard where paperwork is checked, a sample is taken, and lab analysis is performed. If the sample is within the facility's parameters, the shipment is offloaded into a 9,000 gallon slurry sump. Once flowable, the material is pumped to a settling/treatment tank. Solids that settle at the bottom are pumped to another hold tank that feeds to a centrifuge for further separation of oil and solids. Oily material from the top phase of the settling/treatment tank is pumped to a separate feed tank that feeds to a centrifuge for further separation of oil and water. At this point, the oily material after the centrifuge is pumped to a storage tank until sold. Products are sold as "Fuel Oil," "Slop Oil," or "Crude Oil." Water and solids removed from the process are sent for disposal.

Primary Treatment, Storage, and Disposal Facilities (TSDF) utilized by the facility include Gulf West Landfill, Anahuac, Texas (TCEQ Permit No.: 39039) and the Big Hill Industrial Waste Injection facility in Winnie, Texas (TCEQ Permit No.: 39098).

Waste Streams and Waste Management Units

The facility's Notice of Registration (NOR) initially dated September 8, 2000, was last amended by computer on June 16, 2009. UES is listed as a Conditionally Exempt Small Quantity Generator (CESQG) of hazardous waste. The NOR lists 12 active waste streams (WS); three hazardous, eight designated as Class 1, and one designated as Class 2. The NOR identifies three active, one closed, and three inactive waste management units (WMUs). The waste streams and WMUs are discussed below. The UES NOR is included as Attachment 4. During the investigation and records review, it was noted that the NOR contained inaccurate information that would require corrections. This is further addressed in the Area of Concern section of this report.

Waste Streams

The Annual Waste Summaries were reviewed during the investigation to evaluate the trend in waste generation and waste disposal. The Annual Waste Summary for report year 2010 lists the three largest waste streams generated as:

- 1) 37,352,640 pounds of waste stream 00024891 - Petroleum contaminated solids. This waste stream is disposed of through the Gulf West Landfill and the Seabreeze Environmental Landfill.
- 2) 2,845,090 pounds of waste stream 00032051 - Oily water. This waste stream is disposed of through the Big Hill Industrial Waste Injection Facility in Winnie, Texas (SWR No.: 39098).
- 3) 577,540 pounds of waste stream 00086951 - Oily sludge tank bottoms from recycling oil. This waste stream is disposed of at the Gulf West landfill.

Do to the volume of wastes reported, additional information regarding facility management of oily materials is requested in the Additional Issues section of this report.

Waste Management Units

The NOR identifies three active WMUs:

Container Storage Areas

NOR units 002 and 003 are classified as Container Storage Areas (CSA). There were no signs of cracks or stains, nor were any leaks observed, with any of these units, at the time of the

investigation. The containers observed were in good condition, and within the accumulation period. Adequate aisle space is maintained. No issues noted.

Sump

NOR unit 004 is classified as a sump, described by the facility as the central accumulations sump. This is a 9,000 gallon sump where all inbound shipments of oily material and used oil are first accumulated, eventually to be pumped to one of 20 tanks.

Inactive Units

NOR units 005, 006, 007 are listed as inactive tanks. Facility representatives were requested to complete the closure process for inactive units identified on the NOR. Each unit includes the same description, "please inactivate this unit because this tank only contains used oil." Three of the twenty tanks located on-site were labeled with the words "used oil"; however, when asked about the purpose of each individual tank, the facility representative stated that the tanks could be used for different purposes, meaning that the tanks labeled as used oil not necessarily managing used oil. A tank

usage description was requested from the facility (provided in Attachment 5). Usages are distinguished between storage, settling, mixing, and pH adjustment.

Record Review

Operational records maintained at the facility indicated that UES, for the previous three years, was classified as a Conditionally Exempt Small Quantity Generator. The following records were maintained on-site and were made available for review:

Documentation regarding manifests and Land Disposal Restrictions (LDR), for the period between the years 2008 through February 2011, was reviewed during the investigation. No deficiencies were noted.

The facility's documentation regarding hazardous waste determinations and waste classification was reviewed during the investigation. The facility uses analytical testing and process knowledge in classifying waste streams. No deficiencies were noted.

The facility is required to prepare in writing and implement a Spill Prevention Control and Countermeasures (SPCC) Plan. The UES SPCC plan reviewed onsite during the investigation was dated January 2002. The professional Engineer stamp date was noted to be December 14, 2001. The plan has not been amended to include changes in the facility's design and construction of additional fixed oil storage tanks and the related ancillary equipment. None of the contacts listed throughout the SPCC plan are employed at this facility.

The owner or operator of a facility subject to this part, must amend the SPCC Plan for the facility in accordance with 30 Texas Administrative Code (TAC) 328.28 and the general requirements in 40 Code of Federal Regulations (CFR) §112.7, and with any specific section of this part applicable to the facility, when there is a change in the facility design, construction, operation, or maintenance. The facility failed to amend the SPCC after changes to the facility design and operation including the commissioning and decommissioning of containers; replacement, reconstruction, or movement of containers; reconstruction, replacement, or installation of piping systems; construction or demolition that might alter secondary containment structures; changes of product or service; or revision of standard operation or maintenance procedures at the facility. This is further discussed in the Outstanding Alleged Violation.

ADDITIONAL INFORMATION

The TCEQ Exit interview Form sent to Mr. Howard on April 4, 2011 documented four items included as records requests. The records requested concerned the usage of tanks, the sale and purchase of oily products, and the laboratory procedures. The information requested was received by the agency on April 8, 2011 (Attachment 6). A second TCEQ Exit Interview Form was sent, requesting more records, to the facility on April 18, 2011. The records requested concerned any rejected loads, used oil analysis,

documentation used to track the sales of oily products, and the last biennial report as required under the Used Oil Regulations. The company's response was received on April 25, 2011, and a follow-up response to questions transmitted by e-mail was received on May 10, 2011(Attachment 7).

Bills of Lading (BOL) were included in the facility's first response. Five of the BOLs specifically identify the material as Used Oil (provided separately in Attachment 8) which would require that those loads are managed in accordance with the Standards for the Management of Used Oil. Other common names documented on BOLs include: lube oils, non-hazardous non-regulated liquid, tank bottom solids, and oily water. The facility does not claim this material to be a waste; however, it is unclear what exemption or exclusion the facility qualifies under. Further information is requested in the Additional Issues section of this report. Specifically the facility is requested to determine and provide documentation supporting how oily material and used oil are classified, managed, and under what rule applicability.

As previously mentioned in the General Facility and Waste Process Information section of this report, multiple shipments of oily material, which at times may include used oil, are blended, processed, marketed and sold under the names "Fuel Oil," "Slop Oil," or "Crude Oil." The facility has not determined whether the used oil to be burned for energy recovery meets the used oil fuel specifications set forth in 40 CFR §279.11, nor has the facility registered as a Used Oil Fuel Marketer.

BACKGROUND

The solid waste regulatory status concerning general information and previously issued violations was verified pursuant to the investigation, the following information was noted:

The last Waste media investigation was conducted on October 19, 2004. Three violations were alleged during the investigation and resolved within the investigation timeframe as Areas of Concern. After reviewing the Consolidated Compliance Enforcement Data System (CCEDS), it is noted that there are no active Waste Program violations for the facility.

OUTSTANDING ALLEGED VIOLATIONS

The following alleged violations were documented during the investigation and remain outstanding:

1. 30 Texas Administrative Code (TAC) 328.28/40 Code of Federal Regulations (CFR) 112.5 Amendment of Spill Prevention, Control, and Counter-measure Plan by owners or operators (Category B)

The owner or operator is required to amend the SPCC Plan for the facility in accordance with the general requirements in §112.7, and with any specific section of this part applicable to your facility, when there is a change in the facility design, construction, operation, or maintenance that materially affects its potential for a discharge as described in §112.1(b).

The UES SPCC plan reviewed onsite during the investigation was dated January 2002. The professional Engineer stamp date was noted to be December 14, 2001. The plan has not been amended to include changes in the facility's design and construction of additional fixed oil storage tanks and the related ancillary equipment. None of the contacts listed throughout the SPCC plan are employed at this facility.

The facility is required to amend as necessary the SPCC plan and submit verification of this activity to the TCEQ Houston Region 12 Office.

2. 30 Texas Administrative Code (TAC) 324.12(3)/40 CFR 279.11 - Used Oil Specification (Category B)

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this part unless it is shown not to exceed any of the allowable levels of the constituents and properties listed in this section.

The facility has not determined whether the used oil to be burned for energy recovery meets the used oil fuel specifications.

The facility is required to provide analysis demonstrating compliance to the TCEQ Houston Region 12 Office.

3. 30 TAC 324.14/40 CFR 279.73 - Notification (Category B)

Marketers must register their used oil activities if they have not previously registered their specific used oil activities with the commission and the EPA.

The facility has not determined whether the used oil to be burned for energy recovery meets the used oil fuel specifications set forth in 40 CFR §279.11; However, used oil is received by the facility and may be sold as a "Fuel Oil" after processing which would require the facility to register as a Used Oil Fuel Marketer.

The facility is required to register as a Used Oil Fuel Marketer and submit verification of this activity to the TCEQ Houston Region 12 Office.

AREA OF CONCERN

The following violation was documented during the investigation conducted on March 28 and 31, 2011, and subsequently resolved as an Area of Concern by the facility.

30 Texas Administrative Code 335.6(c) - Notification Requirements (Category C)

Any person who provides notification pursuant to this subsection shall have the continuing obligation to immediately document any changes or additional information with respect to such notification and within 90 days of the occurrence of such change or of becoming aware of such additional information, provide notice to the executive director in writing or using electronic notification software provided by the executive director, of any such changes or additional information to that reported previously.

During the investigation and records review, it was noted that the NOR, last computer update June 16, 2009, had the following inaccuracy that required correction:

Update "Primary" and "Other" contact on the NOR.

The facility is required to update the NOR to reflect the current waste generation and management status and provide verification to the TCEQ Houston office.

This violation was resolved as an area of concern on April 7, 2011, when the company provided the requested NOR updates to the Registration and Reporting Office in Austin and submitted verification to the TCEQ Houston Office.

OUTSTANDING ADDITIONAL ISSUES

The following additional issues were noted during the investigation conducted on February 17, 2011:

1. The facility's NOR lists three units as inactive (NOR 005, 006, and 007). The facility is requested to initiate the closure of the above mentioned units in a timely manner and submit the closure reports to the TCEQ Remediation Division in Austin and a copy to the TCEQ Region 12 Office. Furthermore, once the closure letter is approved by the TCEQ Remediation Division, the facility must make sure that the units are described as closed units on the NOR. The TCEQ guidance for the closure of units can be found in the TCEQ publication RG 366.

2. It is requested that the facility provide documentation regarding the management of in-bound shipments of oily material (noted as lube oils, non-hazardous non-regulated liquid, tank bottom solids, petroleum contaminated solids, and oily water and used oil). The information requested is listed below:

- For the oily materials listed above explain the type of fleet and documentation used to bring and

UNITED ENVIRONMENTAL SERVICES - BAYTOWN

3/28/2011 to 5/10/2011 Inv. # - 933787

Page 7 of 10

- remove the material to United Environmental Services in Baytown, Texas.
- Explain if United Environmental Services considers the material to be commercial or industrial and why.
 - Explain the process for each of the materials listed above. Starting with how the facility accepts the material to the final disposition of the material.
 - Regarding off-specification fuel; can the material be used as a fuel or fuel additive?
 - Regarding off-specification fuel; what is the British Thermal Unit (BTU) value that the facility requires when it receives material?
 - Explain the process of reclamation for each of the oily materials accepted.
 - Does United Environmental Services reclaim the used oil by gravity separation or burner?
 - Does United Environmental Services reclaim everything or does a portion of the material get disposed of?
 - Explain what exemptions or exclusion the facility is claiming for the management of oily materials and how the exemption or exclusion is applicable for each material stream.
 - Explain what exemption or exclusion from solid waste is claimed (spent, byproduct, co-product, energy recovery, comparable fuel, etc.), for the oily material received.

The information requested above shall be remitted to the TCEQ Region 12 Houston Office. Compliance will be determined after evaluation of the requested documentation.

<u>NOV Date</u>	<u>Method</u>
03/28/2011	AREA OF CONCERN
06/23/2011	WRITTEN
OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF VIOLATION	

Track No: 438187

Compliance Due Date: To Be Determined
Violation Start Date: Unknown

30 TAC Chapter 328.28
40 CFR Chapter 110.5

Alleged Violation:

Investigation: 933787

Comment Date: 06/20/2011

The owner or operator is required to amend the SPCC Plan for the facility in accordance with the general requirements in §112.7, and with any specific section of this part applicable to your facility, when there is a change in the facility design, construction, operation, or maintenance that materially affects its potential for a discharge as described in §112.1(b).

The UES SPCC plan reviewed onsite during the investigation was dated January 2002. The professional Engineer stamp date was noted to be December 14, 2001. The plan has not been amended to include changes in the facility's design and construction of additional fixed oil storage tanks and the related ancillary equipment. None of the contacts listed throughout the SPCC plan are employed at this facility.

Recommended Corrective Action: The facility is required to amend as necessary the SPCC plan and submit verification of this activity to the TCEQ Houston Region 12 Office.

Track No: 438188

Compliance Due Date: To Be Determined
Violation Start Date: Unknown

30 TAC Chapter 324.12(3)
40 CFR Chapter 279.11

Alleged Violation:

Investigation: 933787

Comment Date: 06/20/2011

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this part unless it is shown not to exceed any of the allowable levels of the constituents and properties listed in this section.

The facility has not determined whether the used oil to be burned for energy recovery meets the used oil fuel specifications.

Recommended Corrective Action: The facility is required to provide analysis demonstrating compliance to the TCEQ Houston Region 12 Office.

Track No: 438189

Compliance Due Date: To Be Determined

Violation Start Date: Unknown

30 TAC Chapter 324.14

40 CFR Chapter 279.73

Alleged Violation:

Investigation: 933787

Comment Date: 06/20/2011

Marketers must register their used oil activities if they have not previously registered their specific used oil activities with the commission and the EPA.

The facility has not determined whether the used oil to be burned for energy recovery meets the used oil fuel specifications set forth in 40 CFR §279.11; However, used oil is received by the facility and may be sold as a "Fuel Oil" after processing which would require the facility to register as a Used Oil Fuel Marketer.

Recommended Corrective Action: The facility is required to register as a Used Oil Fuel Marketer and submit verification of this activity to the TCEQ Houston Region 12 Office.

AREA OF CONCERN

Track No: 438180

Resolution Status Date: 6/20/2011

Violation Start Date: Unknown

Violation End Date: 4/7/2011

30 TAC Chapter 335.6(c)

Alleged Violation:

Investigation: 933787

Comment Date: 06/20/2011

Any person who provides notification pursuant to this subsection shall have the continuing obligation to immediately document any changes or additional information with respect to such notification and within 90 days of the occurrence of such change or of becoming aware of such additional information, provide notice to the executive director in writing or using electronic notification software provided by the executive director, of any such changes or additional information to that reported previously.

During the investigation and records review, it was noted that the NOR, last computer update June 16, 2009, had the following inaccuracy that required correction:
Update "Primary" and "Other" contact on the NOR.

Recommended Corrective Action: The facility is required to update the NOR to reflect the current waste generation and management status and provide verification to the TCEQ Houston office.

Resolution: This violation was resolved as an area of concern on April 7, 2011, when the company provided the requested NOR updates to the Registration and Reporting Office in Austin and submitted verification to the TCEQ Houston Office.

Additional Issues

Description Item #1

Additional Comments

It is requested that the facility provide documentation regarding the management of in-bound shipments of oily material (noted as lube oils, non-hazardous non-regulated liquid, tank bottom solids, petroleum contaminated solids, and oily water and used oil). The information requested is listed below:

- For the oily materials listed above explain the type of fleet and documentation used to bring and remove the material to United Environmental Services in Baytown, Texas.
- Explain if United Environmental Services considers the material to be commercial or industrial and why.
- Explain the process for each of the materials listed above. Starting with how the facility accepts the material to the final disposition of the material.
- Regarding off-specification fuel; can the material be used as a fuel or fuel additive?
- Regarding off-specification fuel; what is the British Thermal Unit (BTU) value that the facility requires when it receives material?
- Explain the process of reclamation for each of the oily materials accepted.
- Does United Environmental Services reclaim the used oil by gravity separation or burner?
- Does United Environmental Services reclaim everything or does a portion of the material get disposed of?
- Explain what exemptions or exclusion the facility is claiming for the management of oily materials and how the exemption or exclusion is applicable for each material stream.
- Explain what exemption or exclusion from solid waste is claimed (spent, byproduct, co-product, energy recovery, comparable fuel, etc.), for the oily material received.

The information requested above shall be remitted to the TCEQ Region 12 Houston Office. Compliance will be determined after evaluation of the requested documentation.

Description Are any closed or abandoned solid waste units present?

Additional Comments

The facility's NOR lists three units as inactive (NOR 005, 006, and 007). The facility is requested to initiate the closure of the above mentioned units in a timely manner and submit the closure reports to the TCEQ Remediation Division in Austin and a copy to the TCEQ Region 12 Office. Furthermore, once the closure letter is approved by the TCEQ Remediation Division, the facility must make sure that the units are described as closed units on the NOR. The TCEQ guidance for the closure of units can be found in the TCEQ publication RG 366.

Signed _____
Environmental Investigator

Date _____

Signed _____
Supervisor

Date _____

Attachments: (in order of final report submittal)

___ Enforcement Action Request (EAR)

___ Letter to Facility (specify type) : _____

Investigation Report

___ Sample Analysis Results

___ Manifests

___ NOR

___ Maps, Plans, Sketches

___ Photographs

___ Correspondence from the facility

___ Other (specify) :

